

**INDIANA BOARD OF TAX REVIEW**  
**Small Claims**  
**Final Determination**  
**Findings and Conclusions**

**Petition #:** 84-003-02-1-5-00005  
**Petitioners:** William E. & Mary Bonnie Kemper  
**Respondent:** Honey Creek Township Assessor (Vigo County)  
**Parcel #:** 102-09-36-351-005  
**Assessment Year:** 2002

The Indiana Board of Tax Review (the “Board”) issues this determination in the above matter, and finds and concludes as follows:

**Procedural History**

1. Petitioners initiated an assessment appeal with the Vigo County Property Tax Assessment Board of Appeals (the “PTABOA”) by written document dated September 26, 2003.
2. Petitioners received notice of the decision of the PTABOA on June 22, 2004.
3. Petitioners filed an appeal to the Board by filing a Form 131 with the county assessor on July 16, 2004. Petitioners elected to have this case heard according to small claim procedures.
4. The Board issued a notice of hearing to the parties dated February 1, 2005.
5. Administrative Law Judge Rick Barter held an administrative hearing in Terre Haute on March 9, 2005.
6. Persons present and sworn in at hearing:  
For Petitioners – William E. Kemper, property owner,  
For Respondent – Jennifer Becker, Representative for Vigo County Assessor,  
Shari Arven, Vigo County Assessor’s Office,  
Susan McCarty, Vigo County Chief Deputy Assessor.

**Facts**

7. The property is a single story brick residential dwelling on 0.94 acres of land located at 9715 Cora Court, Terre Haute.
8. The Administrative Law Judge (the “ALJ”) did not conduct an inspection of the property.

9. The assessed value of the subject property as determined by the Vigo County PTABOA:
- |      |          |              |           |       |            |
|------|----------|--------------|-----------|-------|------------|
| Land | \$22,900 | Improvements | \$142,300 | Total | \$165,200. |
|------|----------|--------------|-----------|-------|------------|
10. The assessed value requested by Petitioners:
- |      |         |              |           |       |            |
|------|---------|--------------|-----------|-------|------------|
| Land | \$6,300 | Improvements | \$108,344 | Total | \$114,644. |
|------|---------|--------------|-----------|-------|------------|

### Issue

11. Summary of Petitioners' contentions in support of alleged error in assessment:
- a) The current assessed value of the subject property is overstated at \$165,000. The subject property was purchased in June 2002 for \$165,000. *W. Kemper testimony.*
  - b) The title insurance policy places a value of \$165,000 on the subject property. *Kemper testimony, Petitioner Exhibit 8.*
  - c) The taxes for a property, which is located at 5705 Lambert Road with a larger home and on 15 acres, are only \$1,376 a year. It is currently on the market for approximately \$200,000. *Kemper testimony.*
12. Summary of Respondent's contentions in support of the assessment:
- a) The current assessed value is within 0.31% of the 2002 purchase price. *Becker testimony; Respondent Exhibit 1.* The market values between January 1, 1999, and 2002 have not changed significantly. *Becker testimony.*
  - b) Petitioners have not presented any evidence or reasoning to support their requested value of \$114,644. *Becker testimony, Respondent Exhibit 1.*

### Record

13. The official record for this matter is made up of the following:
- a) The Petition,
  - b) The tape recording of the hearing labeled BTR 6193.
  - c) Exhibits:
    - Petitioner Exhibit 1 – A copy of the Notice of Hearing,
    - Petitioner Exhibit 2 – A copy of the Form 11 for the subject property,
    - Petitioner Exhibit 3 – The subject property record card,
    - Petitioner Exhibit 4 – The filing receipt for the underlying Form 130,
    - Petitioner Exhibit 5 – A copy of page 4 from the underlying Form 130,
    - Petitioner Exhibit 6 – A copy of the Form 114,
    - Petitioner Exhibit 7 – A copy of the front page of the Form 131,
    - Petitioner Exhibit 8 – A copy of title insurance for the subject property,

Respondent Exhibit 1 – The summary of contentions,  
Respondent Exhibit 2 – A copy of the Form 115,  
Respondent Exhibit 3 – The subject property record card,  
Respondent Exhibit 4 – Pages 7, 8, and 9 from chapter 2 of the REAL PROPERTY  
ASSESSMENT GUIDELINES FOR 2002 – VERSION A,  
Board Exhibit A – The Form 131 petition,  
Board Exhibit B – The Notice of Hearing,  
Board Exhibit C – Notice of Appearance,  
Board Exhibit D – Hearing Sign in Sheet,

d) These Findings and Conclusions.

### Analysis

14. The most applicable governing cases are:

- a) A Petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving that the current assessment is incorrect and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also, Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
- b) In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v. Washington Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) (“[I]t is the taxpayer's duty to walk the Indiana Board . . . through every element of the analysis”).
- c) Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner's evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner's evidence. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.

15. Petitioners did not provide sufficient evidence to support their contentions. This conclusion was arrived at because:

- a) The page from the title insurance issued for the subject property indicates the value in June 2002 was \$165,000. *Petitioner Exhibit 8*. While this evidence was presented to show that the current assessment is incorrect, this evidence actually supports the current assessment. This is because the evidence on record shows that the market values between January 1, 1999 and 2002 have remained relatively unchanged and, therefore, it gives a fair reflection of what the subject property's market value would have been on the valuation date of January 1, 1999. *Becker testimony*.

- b) Petitioners also referred to a property located at 5705 Lambert Road to show that a property with a greater market value has a lesser tax bill than the subject property. *Kemper testimony*. This allegedly comparable property is located in a different township within Vigo County, has a larger home, and has more land than the subject property. *Kemper testimony*. Petitioners' own evidence establishes that the proffered comparable property is not comparable to the subject property. *Kemper testimony*. Alternatively, Petitioners failed to establish comparability. Therefore, this evidence lacks probative value. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005).
- c) To prevail, Petitioners were required to present evidence showing that the current assessment was incorrect and what the correct assessment should be. *Meridian Towers*, 805 N.E.2d 475, 478; *Clark*, 694 N.E.2d 1230. Petitioners failed to do so. The evidence presented did not show that the current assessment of \$165,200 was incorrect or that the correct assessment should be \$114,644. In fact, in consideration of the evidence provided by the Respondent regarding the relation between the 2002 market values and the January 1, 1999 market values, the evidence presented by the Petitioners tends to show that the current assessment of \$165,200 is correct.

### **Conclusion**

16. Petitioners failed to make a prima facie case. The Board finds in favor of Respondent.

### **Final Determination**

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should not be changed.

ISSUED: \_\_\_\_\_

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Commissioner,  
Indiana Board of Tax Review

## IMPORTANT NOTICE

### - Appeal Rights -

You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. You must name in the petition and in the petition's caption the persons who were parties to any proceeding that led to the agency action under Indiana Tax Court Rule 4(B)(2), Indiana Trial Rule 10(A), and Indiana Code §§ 4-21.5-5-7(b)(4), 6-1.1-15-5(b). The Tax Court Rules provide a sample petition for judicial review. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>. The Indiana Trial Rules are available on the Internet at [http://www.in.gov/judiciary/rules/trial\\_proc/index.html](http://www.in.gov/judiciary/rules/trial_proc/index.html). The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>.